

The seal of the Judicial Council of California is a circular emblem. It features a central figure of Minerva, the Roman goddess of wisdom, wearing a helmet and holding a spear. The word "EUREKA" is inscribed above her head. The outer ring of the seal contains the text "JUDICIAL COUNCIL OF CALIFORNIA" and a decorative border of stars.

# **CAMERAS IN THE COURTROOM**

## ***Report on Rule 980***

**May 2000**

**Prepared by**

**Administrative Office of the Courts  
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**JUDICIAL COUNCIL OF CALIFORNIA  
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**CAMERAS IN THE COURTROOM  
Report Summary**

**Issue Statement**

In 1997 the Judicial Council amended rule 980 of the California Rules of Court, concerning photographing, recording, and broadcasting in the courtroom. To monitor the implementation of the amended rule, Chief Justice Lucas requested that the trial courts submit to the Administrative Office of the Courts (AOC) copies of all forms filed pursuant to the rule. This report summarizes the data received from the trial courts and provides an update on the implementation of the amended rule 980.

**Summary of Report Findings**

- From January 1997 through December 1999, the AOC received 3,224 *Media Request to Photograph, Record, or Broadcast* forms (MC-500) from 32 counties.
- In the same period, the AOC received 2,116 *Order on Media Request to Permit Coverage* forms (MC-510).
- Eighty-one percent of the orders granted the media's request for coverage; 19 percent denied the media's request.
- There was substantial variation among counties, with some granting as few as 59 percent of media requests and others granting as many as 98 percent of media requests.
- Arraignments were the type of proceeding the media most often requested permission to cover (28 percent), followed by verdict or sentencing hearings (16 percent), pretrial hearings (14 percent), and trials (12 percent).
- The media most often requested permission to use television cameras in court (55 percent), followed by still cameras (23 percent) and audio equipment (22 percent).
- At least 48 percent of media requests did not comply with the requirement that they be filed five days before the hearing they sought to cover. (Forty-three percent of requests do not contain information sufficient to determine compliance with the five-day rule.)
- Hearings were held on 8 percent of media requests for coverage.

- Thirteen percent of media request forms contained an acknowledgment of responsibility for increased court costs resulting from the media's coverage. None of the forms included an estimate of the increased costs.
- The media request forms were often filled out incompletely or incorrectly, and all were missing at least one piece of requested information.
- There are serious problems with the nature and quality of the data that limit its usefulness.
- A review of local court rules, appellate cases, and news and law review articles suggests that rule 980 is not currently a topic of great public controversy.

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**CAMERAS IN THE COURTROOM**  
*Report on Rule 980*

In January 1997 the Judicial Council amended rule 980 of the California Rules of Court, concerning photographing, recording, and broadcasting in the courtroom. This report is an update on the implementation of the amended rule 980. In Section I we summarize the data provided by the trial courts about the application of rule 980. In Section II we consider some outside sources of information about rule 980. Section III contains recommendations about the data collection process, rule 980, and its accompanying forms.

**Background**

In 1994 and 1995 California saw extensive media coverage of a few high-profile court cases.<sup>1</sup> The perception that the media coverage of these cases created a “circuslike” atmosphere in the court led to calls for new rules governing the use of cameras in court. Some called for a complete ban on cameras, while others argued that the media should be granted broad access to photograph and film court proceedings.

On October 27, 1995, Chief Justice Lucas announced the appointment of a special task force to review rule 980 of the California Rules of Court. The 13-member task force conducted a statewide survey of judges, public defenders, and prosecutors and solicited the views of many bar groups. The task force members attended an educational forum and hosted a public hearing on the topic of cameras in the courtroom. In addition, they reviewed scores of letters, telephone calls, reports, newspaper and journal articles, earlier studies, and other information. In 1996 the task force circulated a proposed amended rule 980 for comment.

As a result of the task force’s efforts, the Judicial Council adopted an amended rule 980, which went into effect January 1, 1997. The council also adopted two mandatory forms to implement the rule: *Media Request to Photograph, Record, or Broadcast* (Form MC-500) and *Order on Media Request to Permit Coverage* (Form MC-510).

To monitor the implementation of the newly amended rule 980, Chief Justice Lucas requested that the courts send copies of all forms filed pursuant to the rule to the Administrative Office of the Courts (AOC). From those forms, the AOC has created a database of information about the use of rule 980.

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<sup>1</sup> See, e.g., *People v. Simpson*, No. BA097211 (Cal.Super.Ct.); *People v. Menendez*, No. BA068880 (Cal.Super.Ct.).

## **Section I: Data From Rule 980 Forms**

Since January 1, 1997, the trial courts have been submitting rule 980 forms to the AOC. The resulting database is a large, statewide sample of media requests and orders over a three-year period. It provides a broad overview of how the amended rule 980 is functioning in the California courts.

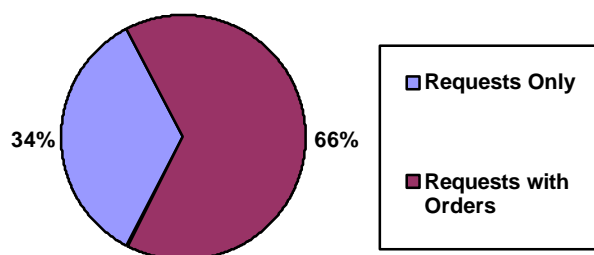
It is important to note that the data does not constitute a precise accounting of all media activity in the California courts. Only 32 of the 58 counties submitted media requests and orders to the AOC, which means that nearly half of the counties did not submit any media requests or orders. Given that some of the nonreporting counties are large urban counties, it is likely that at least some nonreporting counties had media requests for coverage that went unreported. In addition, because some highly populated counties reported very small numbers of media requests, it seems likely that the numbers of forms sent by some counties do not represent the total numbers of media requests made in those counties.<sup>2</sup>

### **Overall Results**

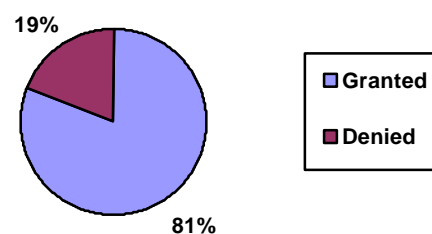
As depicted in Figures 1 and 2, the trial courts submitted 3,224 media requests (Form MC-500) and 2,116 court orders on media requests (Form MC-510) to the AOC. Thus, more information is available about what the media have requested than there is about how the courts ruled on their requests. The 2,116 court orders represent the dispositions of 67 percent of the media requests.

Statewide, the courts granted 81 percent of the media requests for which orders were received.<sup>3</sup>

**Figure 1. Total Requests, Orders, and Dispositions (n = 3,224)**



**Figure 2. Rulings on Media Requests for Coverage (n = 2,116)**



<sup>2</sup> It is unknown whether the assumed unreported media requests were made without rule 980 forms or whether some rule 980 forms were not submitted.

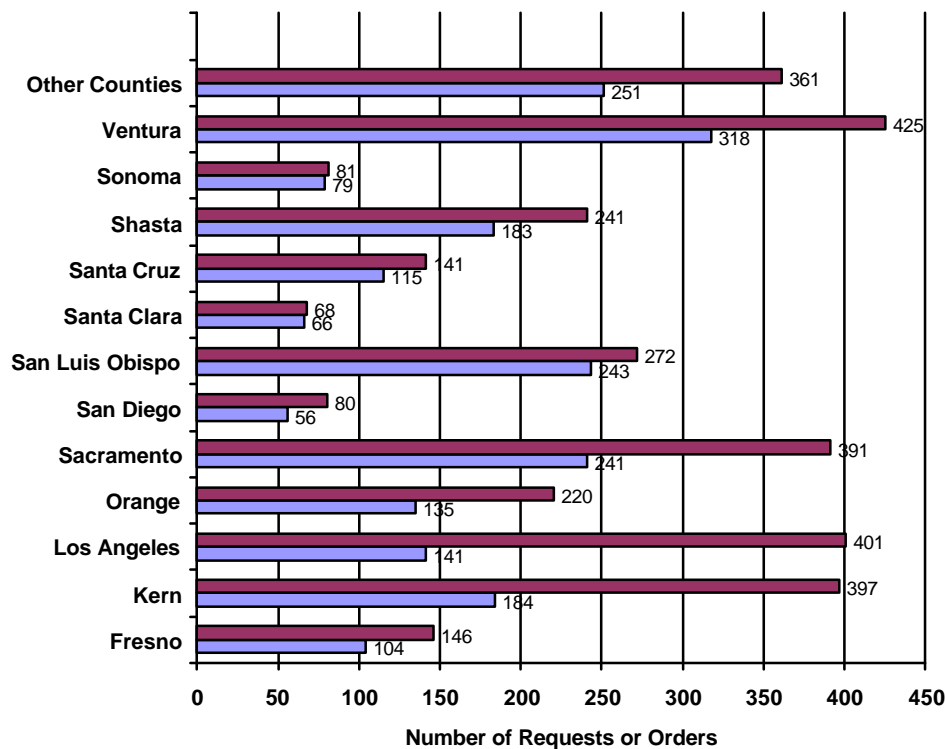
<sup>3</sup> This percentage is particularly interesting in light of the fact that 55 percent of judges surveyed by the task force in 1996 stated that they would prefer that video cameras be banned from the courtroom. Judicial Council of California, *Report From the Task Force on Photographing, Recording, and Broadcasting in the Courtroom* (May 10, 1996) p. 7.

### Media Requests and Dispositions by County

Twelve counties accounted for the vast majority of media request forms. The remaining counties each submitted less than 2 percent of the media request forms. Thirty counties submitted no request or order forms. The counties reporting the most media requests for coverage are represented in Figure 3 below, and the remaining counties are aggregated into a single group of “other counties.”

Figure 3 also indicates how many rule 980 orders were received from each county. The orders, which were submitted less frequently than the requests, contain information that cannot be found elsewhere about the dispositions of the media requests. The difference between number of request forms submitted and number of order forms submitted varied among counties. For example, we have data for the dispositions of almost all requests in Sonoma, Santa Clara, and Santa Cruz counties, but in counties such as Los Angeles and Kern, we know the outcomes of less than half of the requests.

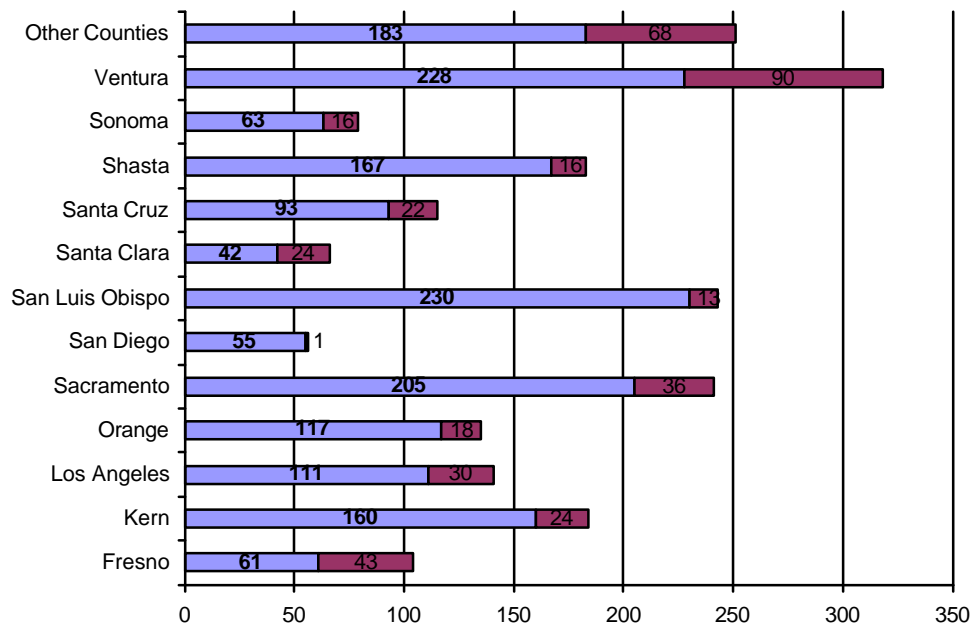
**Figure 3. Media Requests and Orders by County**



The dispositions of media requests varied by county. Whereas 81 percent of media requests were granted statewide, individual counties varied as much as 23 percent from the average. The three counties granting the greatest percentages of requests were San Diego (98 percent), San Luis Obispo (94 percent), and Shasta (91 percent). The three counties granting the

smallest percentages of requests were Fresno (59 percent), Santa Clara (64 percent), and Ventura (72 percent). Figure 4 depicts the media requests granted and denied, by county.

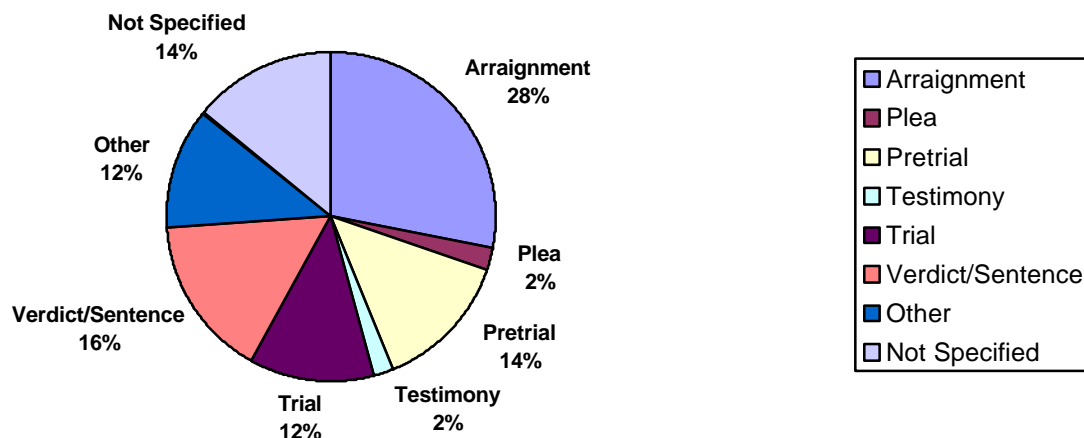
**Figure 4. Dispositions of Media Requests by County**



### Types of Court Proceedings

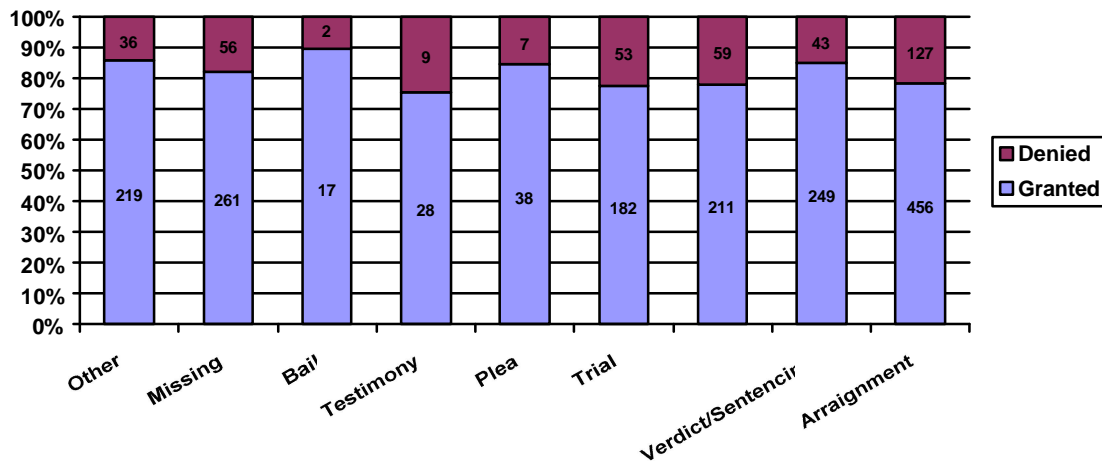
The media most frequently sought to cover hearings that occurred before trial. Arraignments, pleas, and pretrial hearings accounted for 44 percent of all requests; testimony and trials, 16 percent of requests; and post-trial proceedings such as verdicts and sentencing, 16 percent of requests. Figure 5 depicts the percentage of requests for each type of proceeding. The category “testimony” consists of media requests that stated “testimony” without specifying the type of hearing they sought to cover. The “other” category consists of media requests to cover any proceedings not specifically addressed in Figure 5, such as bail hearings. None of the proceedings included in the “other” category composed more than 2 percent of the media requests.

**Figure 5. Types of Proceedings the Media Sought to Cover (n = 3,159)**



As depicted in Figure 6, courts were least likely to grant permission for media coverage of testimony or trial (76 and 77 percent granted, respectively) and most likely to grant permission for coverage of bail hearings (90 percent granted). Requests to cover verdicts and sentencing were granted 85 percent of the time.

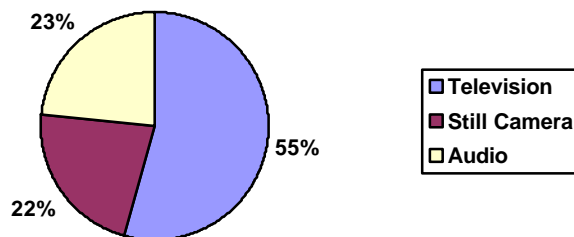
**Figure 6. Percentages of Media Requests Granted and Denied, by Type of Proceeding**



### Types of Media Equipment Requested

Television cameras were the equipment the media most often sought to use in the courtroom (Figure 7). Fifty-five percent of requests made from July 1998 through December 1999 were for television coverage. Requests for the use of audio equipment and still cameras represented 22 percent and 23 percent, respectively, of the total number of requests. In some cases, the media asked to use multiple types of equipment.

**Figure 7. Types of Coverage Requested  
July 1997--December 1999 (n = 2,029)**



The courts granted 82 percent of requests to use television cameras in court, 79 percent of requests to use still cameras, and 84 percent of requests to use audio equipment.

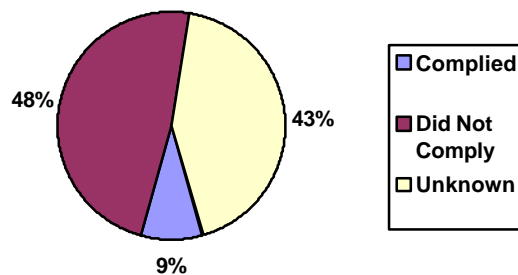


## Media Compliance With Five-Day Notice Rule

Rule 980 requires that media request forms be filed five days before the date of proposed coverage, but permits the court to waive this requirement for good cause. The media request form provides a space in which to explain why a request does not comply with the five-day rule.

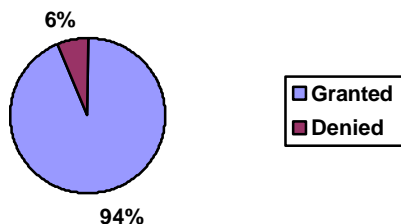
Of the media request forms containing complete date information, 84 percent did not comply with the five-day notice rule. Forty-three percent of the total requests did not include sufficient date information to determine whether they were in compliance with the five-day notice rule (Figure 8).

**Figure 8. Compliance of Requests With Five-Day Rule (n = 3,159)**

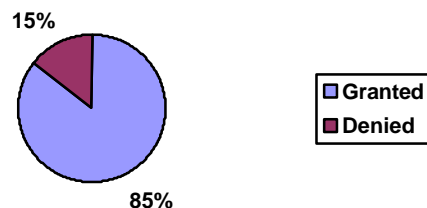


Looking only at the orders resulting from media requests that contained complete date information, courts were more likely to grant requests that complied with the five-day notice rule. As depicted in Figures 9 and 10, 94 percent of requests that complied with the five-day rule were granted, and 85 percent of requests that did not comply were granted.

**Figure 9. Rulings on Requests That Complied With Five-Day Rule (n = 223)**



**Figure 10. Rulings on Requests That Did Not Comply With Five-Day Rule (n = 1,047)**



There are certain pretrial proceedings, such as the arraignment of an in-custody defendant, that are not set five days in advance. For such proceedings, it would be nearly impossible for the media to comply with the five-day rule. Rule 980, by permitting the court to waive the five-day rule for good cause, prevents the rule from being applied unfairly in these situations.

A review of the data from July 1998 through December 1999 suggests that the five-day rule was not applied to deny media access to proceedings the media could not have known about five days in advance. Only 7 percent of requests to cover arraignments adhered to the five-day rule. Of the requests to cover arraignments that did not comply with the five-day rule, 79 percent were granted. This figure is only 2 percentage points lower than the overall percentage of media requests granted (81 percent).

Requests to cover events that occurred later in the case, such as pretrial hearings, trials, and sentencing hearings, complied with the five-day rule more frequently than requests to cover arraignments (35 percent for pretrial hearings, 23 percent for trials, and 13 percent for verdicts and sentencing hearings).

### **Increased Court Costs**

The amended rule 980 provides that a judge may condition an order permitting media coverage on the media agency's agreement to pay any increased court-incurred costs resulting from the media coverage.<sup>4</sup> The media request (Form MC-500) contains a section where the media agency is asked to acknowledge "that it will be responsible for increased court-incurred costs, if any, resulting from [this] media coverage." The form also asks the media to estimate the amount of increased court costs or to specify if the amount is unknown. On only 416 of the forms received (13 percent) did media personnel mark the section of the form acknowledging responsibility for increased court costs. No estimates of increased court costs were provided on any of these forms. The forms do not disclose whether the media actually paid for any court costs.

### **Hearing on Media Request**

Rule 980 provides that the judge "may hold a hearing on the request or rule on the request without a hearing."<sup>5</sup> Both the media request (Form MC-500) and the order on media request (Form MC-510) solicit information about whether a hearing was held on the request. The forms received by the AOC indicate that court hearings were held on 260 media requests (8 percent). The AOC received the orders that resulted from 192 of those requests; the courts granted 172 requests (90 percent) and denied only 20 requests (10 percent). When the courts held a hearing on a media request, the request was more likely to be granted (90 percent versus 81 percent).

## **Section II: Outside Information About Rule 980**

Looking outside the database of media requests and orders, there are several sources of information about how rule 980 is functioning in the courts. This section describes some local rules addressing rule 980 issues, considers the number of appeals of rule 980 issues, and discusses the quantities of news and law review articles that mention the rule.

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<sup>4</sup> California Rules of Court, rule 980(e)(4).

<sup>5</sup> *Id.* at rule 980(e)(2).

## Local Rules on Rule 980 Issues

Local rules concerning photographing, recording, and broadcasting in the courtroom have been identified in 11 courts. Most of those rules either incorporate rule 980 of the California Rules of Court or make a general statement that there will be no photographing or recording of court proceedings without a written court order.<sup>6</sup>

In a few courts, local rules that differ from rule 980 have been adopted since the amendment to rule 980. Rule 4.1 of the Superior Court of Los Angeles County Local Rules contains several specific limitations on media coverage.<sup>7</sup> The rule makes explicit that areas outside the courtroom, such as hallways and elevators, are subject to the procedural requirements of rule 980.<sup>8</sup> The local rule also specifies that, except by court order, cameras and recording devices must be turned off and lens caps placed on cameras while they are transported in the courthouse.<sup>9</sup>

Los Angeles County rule 4.1 prohibits photographing the interior of any courtroom through the windows of glass doors or from between double doors. No microphones or cameras are permitted in a courtroom without a written order of the court.<sup>10</sup> In addition, the rule prohibits the filming or photographing of any person wearing a juror badge in the court.<sup>11</sup> This prohibition clearly includes prospective jurors as well as sworn jurors.

In the Superior Court of San Luis Obispo County, local rules prohibit photographing, recording, filming, or broadcasting the testimony of a witness who is not employed by a governmental agency without the permission of both the witness and the court.<sup>12</sup> The requirement that the witness give permission goes beyond the requirements of rule 980. Rule 980 lists the privacy rights of witnesses as a factor for the court's consideration, but does not require the permission of a nongovernmental witness for media coverage of his or her testimony. San Luis Obispo's rules also differ from rule 980 in that they prohibit the broadcast of audio recordings of court proceedings without court permission.

The local rules of the Superior Court of Santa Barbara County contain specific provisions regarding media coverage of criminal cases. Rule 605 states that no order for electronic media coverage shall be made in a criminal case until the defendant has had adequate opportunity to secure counsel.<sup>13</sup>

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<sup>6</sup> See Superior Court of Fresno County, Local Rules, rule 17.4; Superior Court of Colusa County, Local Rules, rule 13.02; Superior Court of Del Norte County, Local Rules, rule 18; Superior Court of Shasta County, Local Rules, rule 13.02; Superior Court of Siskiyou County, Local Rules, rule 13.02; Superior Court of Yolo County, Local Rules, rule 4.5. See also Rules of Procedure of the State Bar of California, rule 32, adopting the provisions of rule 980 of the California Rules of Court for its proceedings.

<sup>7</sup> Superior Court of Los Angeles County, Local Rules, rule 4.1.

<sup>8</sup> Superior Court of Los Angeles County, Local Rules, rule 4.1(c); The pressroom is exempted from this rule.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Id.* at rule 4.1(c).

<sup>11</sup> *Id.* at rule 4.1(e).

<sup>12</sup> Superior Court of San Luis Obispo County, Local Rules, rule 10.09.

<sup>13</sup> Superior Court of Santa Barbara County, Local Rules, rule 605.

The local rules of the Superior Court of Santa Barbara County also consider that, for security reasons, the court may need to have media personnel removed from the courthouse or court grounds. The rule states that the court shall give notice, as practical, to all members of the media who would be affected by such a ruling and give them an opportunity to be heard on why the action is unnecessary. The rule states that it is not intended to affect rule 980 procedures.<sup>14</sup>

The local rules of the Superior Court of Yuba County incorporate rule 980 except that they include a blanket prohibition of all media coverage in court areas outside the courtroom. The local rule concerning media coverage does not retain the discretion of judges to permit coverage in the common areas of the courthouse.<sup>15</sup>

### **Appeals of Rule 980 Issues**

Since the 1997 amendment to rule 980, there have been no reported appeals concerning rule 980.<sup>16</sup> Before the amendment, appeals of rule 980 issues were infrequent. A search of appellate cases discussing rule 980 found only six appeals since the previous rule 980 took effect in 1984. The first appeal was in 1984 and the second in 1988.<sup>17</sup> There were two appeals in 1990 and one in 1993.<sup>18</sup> The most recent appeal of a rule 980 issue took place in 1996.<sup>19</sup> None of these appellate cases address the constitutionality of the previous rule 980. Rather, the cases discuss the application of the previous rule in a broad range of circumstances.

An accounting of these appellate cases shows that the amendment to rule 980 has not caused an increase in the number of appeals. However, we cannot conclude that the amendment has reduced appeals. Between 1984 and 1997 there were gaps of up to four years between appeals concerning rule 980. Thus, the fact that there have been no appeals in the three-year period since the amendment of rule 980 does not necessarily indicate a decline in appeals.

### **News and Law Review Articles Discussing Rule 980**

A review of newspaper, magazine, journal, and law review articles suggests that the media and the legal community are not currently discussing rule 980 as often as they were in the years immediately preceding the amendment of the rule. A discussion of the results of two

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<sup>14</sup> Superior Court of Santa Barbara County, Local Rules, rule 603.

<sup>15</sup> Superior Court of Yuba County, Local Rules, rule 2.13.

<sup>16</sup> See West's Ann.Cal.Rules of Court, Rule 980; A search of WESTLAW was conducted.

<sup>17</sup> *People v. Spring* (1984) 153 Cal.App.3d 1199 (permitting television cameras in courtroom during defendants trial for murder did not violate rule 980 merely because the request for television coverage did not precede voir dire, nor did it violate defendant's Sixth Amendment right to a fair trial); *KCST-TV Channel 39 v. Municipal Court* (1988) 201 Cal.App.3d 143 (television station could not be constitutionally restrained from disseminating drawing of defendant, despite court order prohibiting frontal photographs of defendant).

<sup>18</sup> *People v. Ashley* (1990) 220 Cal.App.3d 919 (defense request to use tape recorder during cross examination for the purpose of record keeping fell within scope of rule 980); *KFMB-TV Channel 8 v. Municipal Court* (1990) 221 Cal. App.3d 1362 (court lacked authority to limit broadcasting of previously recorded trial court proceeding pursuant to court's permission); *Marin Independent Journal v. Municipal Court* (1993) 12 Cal.App.4th 1712 (confiscation by court of film taken by journalist in deliberate violation of rule 980 is not a First Amendment violation).

<sup>19</sup> *People v. Jackson* (1996) 13 Cal.4th 1164 (videotaping testimony of witness who could be unavailable in the event of a retrial is not a violation of rule 980).

electronic database searches follows. Both searches focused on articles that mentioned rule 980 specifically.<sup>20</sup>

A search of Nexis, a comprehensive electronic news database, shows 49 news articles discussing rule 980 since 1985. Most of the articles (39 of 49) were printed in the three years before rule 980 was amended. The search found only one article that discussed rule 980 after 1997.

Similarly, a search of law review articles indicates that rule 980 is being discussed less frequently now than in the past. Seven California law review articles that discuss rule 980 have been published since 1985. Five of the seven were published in 1996 and 1997, the years in which the amendments to rule 980 were considered, made, and put into effect. No California law review articles focusing on rule 980 have been published since 1997.

### **Section III: Conclusions and Recommendations**

#### **Rule 980 Should Not Be Modified**

The current rule 980 is the result of a great deal of effort and thought by the Task Force on Photographing, Recording, and Broadcasting in the Courtroom and by the Judicial Council. A modification of this rule should not be undertaken lightly, as it would require a large investment of time and resources.

The data that was collected to evaluate rule 980 does not indicate that the rule needs amendment. In fact, there are several indications that rule 980 is accomplishing its objectives. Much of the data we have summarized here speaks to the fact that the rule is working. At the very least, the data demonstrates that the new rule and forms are being used.

The data does indicate that the rule's five-day notice requirement is rarely complied with. Although there are occasions in which the five-day notice requirement cannot be complied with, it appears that the good cause exception to the five-day rule is operating to prevent an unfair application of the rule in these situations. For that reason, it is not necessary to change the five-day rule at this point.

Information acquired from sources outside the AOC data also does not suggest problems with rule 980. Several courts have specifically integrated rule 980 into their local rules. A review of news and law review articles suggests that rule 980 is not a topic of great controversy. In addition, a review of appellate cases shows that appeals of rule 980 issues are infrequent and have not increased as a result of the amendment. There is no indication, in the data or elsewhere, that rule 980 currently needs further study or amendment. Given the absence of

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<sup>20</sup> The search results are not a comprehensive listing of all news and law review articles discussing media photographing, recording, and broadcasting in the courtroom, which would be a much larger group of articles than the group discussed here, particularly in the area of news articles. Rather, the search results described are intended to be a sample of media and legal community interest in rule 980.

reported problems with the amended rule 980, it is recommended that the special data collection be terminated.

### **Forms MC-500 and MC-510 Should Not Be Revised**

The data collection revealed that the Forms MC-500 and MC-510 are being used on a more informal and ad hoc basis than was envisioned by their designers. Every media request form received was missing at least one piece of requested information. That situation, however, is not unique to these forms and does not call for their revision.

Information about completing the forms is available on the California Courts Web site ([www.courtinfo.jud.ca.gov](http://www.courtinfo.jud.ca.gov)) in the manual *Photographing, Recording, and Broadcasting in Courtrooms*. Courts wishing to further educate representatives of the media about completing the forms can refer them to the Web site or provide copies of the information contained therein.